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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,441	08/17/2001	Richard A. Vaughan	EXIN117646	3493
26389 7590 07/02/2008 CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				
EXAMINER ELISCA, PIERRE E				
ART UNIT 3621		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/932,441

Applicant(s)

VAUGHAN ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24-39, 41-64, 66-80 and 82-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24-28, 35-39, 41-64, 66-80 and 82-88 is/are rejected.
- 7) ☒ Claim(s) 29-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to Applicant's amendment filed on 03/31/2008.
2. Claims 1-22, 24-39, 41-64, 66-80, and 82-88 are currently pending.

Claim Objections

3. **Claims 29-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 13, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin, III (U.S. Patent No. 6,397,199) **in view of Borders et al (U.S. Pat. No. 7,177,825).**

As per claim 1, Goodwin III teaches a method implemented in a computer device for processing an available inventory item query corresponding to inventory items defined by inventory information, comprising: storing a set of available inventory information

according to a three level hierarchy, wherein the three level hierarchy includes: at least one group record defining a first level of detail for inventory information wherein the first level of detail of each group record comprises information common to all item category records and inventory records below the group record in the hierarchy; a set of item category records defining a second level of detail that is associated to a referenced group wherein the second level of detail of each item category record comprises information common to all inventory records below the item category record in the hierarchy record mid corresponds to types of inventory items for the referenced group; wherein the third level of detail of each inventory record in the hierarchy describes distinct instances of inventory items than that of another inventory record, obtaining, by the computer device, an available inventory query, tile query including a set of criteria; determining at least one inventory item matching the query criteria, and transmitting matching group record, item category record, and inventory record data for the matching inventory item (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*). Goodwin III fails to teach inventory records defining a third level of detail corresponding to instances of inventory item types referenced by the set of item category records.

It is to be noted that Borders discloses in fig 13 that a DC 1300 organizes inventory merchandise (or third level inventory item) into different picking categories, depending upon the recommended storage temperature of the item. For example, an item which is typically stored at ambient or room temperature will be stocked in the ambient inventory section (1302) of the DC (see., **Borders**, abstract, fig 13, col 36, lines 14-35). However,

it would be obvious to modify the teaching of Goodwin by including the limitation detailed above as taught by **Borders** because this would enhance the inventory system of Goodwin III.

As per claim 2, Goodwin III teaches a method wherein determining at least one inventory item includes identifying all inventory items matching the query criteria, wherein each identified inventory item corresponds to a GROUP RECORD and GROUP RECORD inventory record (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 3, Goodwin III teaches a method wherein determining at least one inventory item includes applying a supplier limitation of use to select a corresponding GROUP RECORD and GROUP RECORD inventory record (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 4, Goodwin III teaches a method wherein determining at least one inventory item includes applying a consumer selection limitation of use to select a corresponding GROUP RECORD and GROUP RECORD inventory record (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 5 and 13, Goodwin III teaches a method further comprising processing the data associated with the identified GROUP RECORD and GROUP RECORD inventory

records prior to transmitting the data (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 6, 7, Goodwin III teaches a method wherein processing the data includes generating a price corresponding to the set of query criteria, ordered list of prices for one or more inventory items (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 22, Goodwin III teaches a method wherein the available inventory query is a user-specified, available inventory query (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 23, Goodwin III teaches a method wherein the GROUP RECORD information includes a GROUP RECORD group record defining a third level of detail, and wherein the GROUP RECORD and GROUP RECORD inventory records correspond to the GROUP RECORD group (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 24, Goodwin III teaches a computer-readable medium having computer-executable instructions operable for performing the method recited in any one of claims 1-23 (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

As per claim 25, Goodwin III teaches a computer system having a processor, a memory, and an operating environment, the computer system operable for performing the method recited in any one of claims 1-23 (*see abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*).

6. Claims 8-12, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin, III (U.S. Patent No. 6,397,199) **and Borders** in further view Murch et al (U.S. PG Pub. 2002/0173996).

As per claims 8-12, P Goodwin, III and **Borders** fail to teach a method wherein processing the data includes applying any date based price adjustments based is a tax rate, is a service charge is an extra person charge, is a point of sale variance computed by a date of use. However, Murch et al teach a method wherein processing the data includes applying any date based price adjustments based is a tax rate, is a service charge is an extra person charge, is a point of sale variance computed by a date of use (*see figs 2, 3, 13-19, paragraphs 0011, 0012, 0033, 0054*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goodwin, III and **Borders** disclosures to include Murch et al a method wherein processing the data includes applying any date based price adjustments based is a tax rate, is a service charge is an extra person charge, is a point of sale variance computed by a date of use because this would have provided and asynchronous booking with an inventory search query from a consumer. A list of possible travel inventory selections that could be retrieved in response to the search query and presented to the consumer

on a client device then respond to the limited availability request by accessing the inventory server and returning an availability response as to whether that particular piece of travel inventory is available at the specified dates and/or times.

As per claims 14-21, Goodwin, III and Borders fail to teach a method wherein the inventory includes travel-based goods and services and wherein the available inventory query includes an available travel-based goods and services query a date or date range selected by a graphical user interface, a selection of a destination, a hotel or hotel room-type, an airline or airline flight, a cruise or cabin type, a car rental vendor or car. However, Murch et al teach a method wherein the inventory includes travel-based goods and services and wherein the available inventory query includes an available travel-based goods and services query a date or date range selected by a graphical user interface, a selection of a destination, a hotel or hotel room-type, an airline or airline flight, a cruise or cabin type, a car rental vendor or car (*see figs 2, 3, 13-19, paragraphs 0011, 0012, 0033, 0054*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify T Goodwin, III and Borders disclosures to include Murch et al a method wherein the inventory includes travel-based goods and services and wherein the available inventory query includes an available travel-based goods and services query a date or date range selected by a graphical user interface, a selection of a destination, a hotel or hotel room-type, an airline or airline flight, a cruise or cabin type, a car rental vendor or car because this would have provided an asynchronous booking with an inventory search query from a

consumer wherein a list of possible travel inventory selections that could be retrieved in response to the search query and presented to the consumer on a client device then respond to the limited availability request by accessing the inventory server and returning an availability response as to whether that particular piece of travel inventory is available at the specified dates and/or times.

As per claims 26-28, and 35-89, they disclose the same invention concept as claims 1-25 and do not further limit the scope of the invention. Therefore, they are rejected under the same rationale as claims 1-7, 13, 22-25.

RESPONSE TO ARGUMENTS

7. Applicant's arguments with respect to claims 1-22, 24-39, 41-64, 66-80, and 82-88 have been fully considered but they are moot in view of new ground (s) of rejection.

REMARKS

8. In regard to Applicant's arguments filed on 03/31/2008, Applicant argues that the cited reference fail to disclose the recited feature:

a. "Applicant asserts that at the time of filing, the present application and Murch were owned by the same person or subject to an obligation of assignment to the same person". However, the Examiner respectfully disagrees with this assertion since Applicant has failed to provide proof to support his argument. Therefore, Applicant's argument is moot.

b. "Applicant further asserts that a prima facie case of obviousness cannot be made". The Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In *re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). See also *In re Eli Lilly & Co.*, 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990) (discussion of reliance on legal precedent); *In re Nilssen*, 851 F.2d 1401, 7 USPQ2d 1500 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); *Ex parte Clapp*, 227 USPQ 972 (Bd. Pat. App. & Inter.); and *Es parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning).

Also in reference to *Ex parte Levengood*, 28 USPQ2d, 1301, the court stated that "Obviousness is a legal conclusion, the determination of which is a question of patent law.

Motivation for combining the teachings of the various references need not to explicitly found in the reference themselves, *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Indeed, the Examiner may provide an explanation based on logic and sound scientific reasoning that will support a holding of obviousness. *In re Soli*, 317 F.2d 941

137 USPQ 797 (CCPA 1963).”

c. storing a set of available inventory information according to a three level hierarchy”. As indicated above, it is the Examiner’s principal position that Goodwin, III discloses this limitation in the *abstract, figs 2, col. 1 lines 42-col. 2 line 9, 2 line 63-3 line 27, 4 line 9-60*.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patent hotelier.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3621

/ Pierre E. Elisca/

Primary Examiner, Art Unit 3621